

Foothart, O.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: MAR 23 2015

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X-----
ECONOMY PREMIER ASSURANCE COMPANY

CIVIL ACTION NO.:
13 CIV 5894

Plaintiff,

**STIPULATED
ORDER**

-against-

SHAWN EZRAPOUR, as executor of the ESTATE
OF RODNEY EZRAPOUR, EMILY WOOD and
DENISE WOOD, as co-executors of the ESTATE OF
KRISTINA SUE ADAMS, CINDY ADAMS,
WILLIAM KARL ADAMS, and TOBY JOHANNES,
and JANET EZRAPOUR,

Defendants.
-----X-----

WHEREAS, plaintiff Economy Premier Assurance Company (“Economy Premier”) filed a summons and complaint on August 21, 2013 and Summons and Amended Complaint on December 19, 2013 seeking a judicial declaration that it has no obligation to defend or indemnify Shawn Ezrapour as executor of the Estate of Rodney Ezrapour under Economy Premier Policy no. 634-74-3365-0 issued to Janet Ezrapour (“Economy Premier Policy”) in the underlying action captioned *Emily Wood and Denise Wood as co-executors of the Estate of Kristina Sue Adams, Cindy Adams, William Karl Adams, and Toby Johannes v. Shawn Ezrapour, as executor of the Estate of Rodney Ezrapour* in the Court of Common Pleas of Wayne County, Pennsylvania under docket no. 148-cv-2014 (“*Wood Action*”); and

WHEREAS, the underlying plaintiffs in the *Wood Action* seek to recover damages in connection with an incident on August 20, 2012 in which Rodney Ezrapour shot and killed Kristina Adams and shot and wounded Toby Johannes (“the incident”).

WHEREAS, defendants Emily Wood and Denise Wood, as co-executors of the Estate of Kristina Sue Adams, Cindy Adams, William Karl Adams, and Toby Johannes (“underlying plaintiffs”) appeared and joined issue by filing answers to the Economy Premier complaint; and

WHEREAS, defendants Shawn Ezrapour, as executor of the Estate of Rodney Ezrapour and Janet Ezrapour did not answer or appear in the action, and the Court issued a Default Judgment on May 12, 2014 declaring that Economy Premier was not obligated to defend Shawn Ezrapour, as executor of the Estate of Rodney Ezrapour in the *Wood Action*; and

WHEREAS, plaintiff Economy Premier has filed a motion for an Order granting summary judgment and declaring that there is no indemnity coverage under the Economy Premier for Shawn Ezrapour, as executor of the Estate of Rodney Ezrapour in the *Wood Action*; and,

WHEREAS, the undersigned parties wish to resolve the motion and action by means of a So-Ordered Stipulation, and;

NOW, THEREFORE, it is hereby stipulated and agreed as follows:

1. At the time of the incident, Rodney Ezrapour was not a resident of Janet Ezrapour’s household.
2. Since Rodney Ezrapour was not a resident of Janet Ezrapour’s household at the time of the incident, he was not an insured under the Economy Premier Policy.
3. Since Rodney Ezrapour was not an insured on the Economy Premier Policy there is no coverage under the policy for Shawn Ezrapour, as executor of the Estate of Rodney Ezrapour in connection with the *Wood Action*.

4. The Court hereby grants Economy Premier's motion for summary judgment and declares that there is no coverage under the Economy Premier policy for Shawn Ezrapour, as executor of the Estate Of Rodney Ezrapour in connection with the *Wood Action* and that the Economy Premier policy shall not be required to pay any judgment or award of damages obtained by the underlying plaintiffs in the *Wood Action* or in any way connected with the incident.

5. Summary judgment is granted based solely on the ground that Rodney Ezrapour was not a member of Janet Ezrapour's household at the time of the incident. The Court does not reach the other grounds asserted by Economy Premier in the motion, including the assertions that coverage is barred by the lack of an "occurrence" and the Intentional Loss exclusion ("other grounds").

6. This Order shall have no precedential value or effect whatsoever with respect to these other grounds.

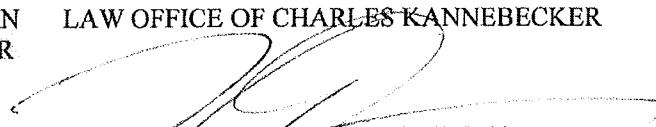
CONGDON, FLAHERTY, O'CALLAGHAN
REID, DONLON, TRAVIS & FISHLINGER



By: Richard J. Nicolello, Esq. (4619)
Attorneys for Plaintiff – Economy
Premier Assurance Company
333 Earle Ovington Blvd., Suite 502
Uniondale, NY 11553
(516) 542-5900

Dated: March , 2015

LAW OFFICE OF CHARLES KANNEBECKER


By: Jason R. Ohliger, Esq. (JO6679)
Attorney for Defendants -
Emily Wood and Denise Wood as co-
executors of the Estate of Kristina Sue
Adams, Cindy Adams, William Karl Adams
and Toby Johannes
104 W. High St.
Milford, Pa. 18337
Tel: (570) 296-6471

Dated: March , 2015

The Court adds the following to the above stipulation:
- This resolves ECF No. 117.
- The Clerk of Court is directed to close this case.

SO ORDERED:



HON. ALISON J. NATHAN
UNITED STATES DISTRICT COURT JUDGE

Dated: New York, New York
March 23, 2015

trn